

## Workshop Report

The Centre on Conflict, Development and Peacebuilding

# GLOBAL AND LOCAL GOVERNANCE IN THE ENERGY SECTOR: THE CASE OF OIL AND MINING

February 4-5, 2010

Centre on Conflict, Development and Peacebuilding  
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# GLOBAL AND LOCAL GOVERNANCE IN THE ENERGY SECTOR: THE CASE OF OIL AND MINING

## FEBRUARY 2010 WORKSHOP REPORT Centre on Conflict, Development and Peacebuilding<sup>1</sup>

On 4-5 February 2010, the Graduate Institute of International and Development Studies in Geneva (IHEID) hosted an international expert workshop on the “Global and Local Governance in the Energy Sector: The Case of Oil and Mining.” The IHEID-based Centre on Conflict, Development and Peacebuilding (CCDP) organised the event in collaboration with the Guilé Foundation and with the financial support of Lundin Petroleum.

In his opening address, Professor Gilles Carbonnier recalled that the objective of this expert workshop was to provide an intimate, informal forum in which to share cutting-edge research and policy work among experts from a variety of fields, including academics from diverse disciplines and selected individuals from the industry and the public sector.

The workshop consisted of presentations of draft papers by participants, followed by discussions. These presentations were divided into five thematic sessions, with a debate following each set of presentations. The revised papers will be grouped into a special issue of *Global Governance*.

The following sections summarise the draft paper presentations corresponding to relevant panels and the key points that were raised in each following discussion. The last section outline the concluding comments of the workshop and highlights opportunities for further research and collaboration.

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<sup>1</sup> The report was prepared by Chris Terauds, together with Gilles Carbonnier, with editorial support from Lyna Comaty.

### **Panel 1: Resource extraction and development**

Jonathan Di John of the *School of Oriental and African Studies at the University of London* presented his survey of theoretical and empirical models related to the “resource curse” thesis. He outlined the implications and shortcomings of the rentier-state and rent-seeking arguments, including the relative lack of public policy prescriptions. Di John proposed bolstering these fields with the study of strategies such as two-track industrialisation (e.g. special export zones) and a larger policy making role for non-state sectors.

Fritz Brugger and Gilles Carbonnier of the *IHEID* presented a political economy approach to interpreting the development outcomes of extractive activities. They focused on a capital approach, looking at how natural capital depletion is transformed into human, physical and social capital, on the allocation’ decision mechanisms, and the actual use of extractive revenues at both national and sub-national levels. They argued that decentralization processes tend to push resource-curse symptoms down to the municipal or provincial levels, where they are exacerbated since local governments have less capacity to address them efficiently. Brugger and Carbonnier also proposed to evaluate ongoing international initiatives aimed at managing resource-curse risks through regime theory, focusing on the behavioural pathways and underlying hypotheses by which they elicit action and reaction from different actors.

Peter Schaber of the *University of Zurich* presented a moral philosophy perspective on the question of natural resource ownership. He examined examples of political regimes and leaders violating property rights. He distinguished outcome responsibility from remedial responsibility and the allocation of these responsibilities among the actors in question. He assessed how current initiatives such as the Extractive Industries Transparency Initiative (EITI) address property rights violations. Schaber also raised the option of expanding the International Criminal Court’s (ICC) mandate to include egregious natural resources property rights violations because they affect people’s human rights.

On behalf of Jorge Vinueles of the *IHEID*, Anida Yupari from the *IHEID/CCDP* presented an international law perspective on natural resources ownership and the “resource curse.” Prof. Vinueles’s paper outlined the respective jurisdictions of international and domestic law with regard to ownership of natural resources, as well as the few avenues of recourse that the two legal architectures offer in the event of misuse or theft of resource wealth by a government. Yupari added her view that recent developments in international human rights and environmental law could offer alternative remedies for strengthening peoples’ rights over natural resources and accountability of the State. She also pointed out that international soft law and some domestic regimes, in particular regarding indigenous peoples, have already incorporated the right to free, prior and informed consent before to

grant rights over natural resources located in indigenous peoples lands.

#### Panel 1- Discussion

Participants' discussion turned to the features of a rentier state: where does the State intervention generate growth-restricting policies and negative development outcomes and corruption? Some participants highlighted the importance of analysing the relationship between mineral abundance, political violence and institutional weakness in rentier state models. They stressed the importance of examining these interactions and acquire a better understanding of why some states address them while others don't. Econometric evidence suggests that growth is unrelated to taxation levels and that capital mobilisation in developing countries is often unrelated to taxation.

Experts stressed that with the advance of globalisation, diversification into non-resource sectors has become more complicated than before because of both the intense competition and increased difficulty to protect infant industries. The case of Botswana was mentioned as a country with high economic growth but low diversification.

Participants underlined that economic factors aside, the adverse effects of resource wealth results largely from public policy choices and the quality of advice provided. A deeper analysis of how policy guidance affects development outcomes should be carried out.

From another perspective, experts noted that military expenditures in

developing countries often receive heavy scrutiny from the international community. However part of the discussion on this subject was devoted to consider whether higher military expenditures in resource-rich states contribute to preserving political restraint from the military leadership, and how the quality of those expenditures affected development outcomes.

Participants stressed the valuable perspectives that moral philosophy debates provided to the approach of the issue of property rights and the responsibility of states. Regional and bilateral trade and investment agreements increasingly address social and human rights together with trade cooperation (e.g. South Africa and its black empowerment programme). A further analysis of international binding and soft law development and domestic regimes that already include measures to enhance host communities rights over natural resources located in their territories should be interesting to develop.

#### **Panel 2: Resource rent and revenue management**

Giacomo Luciani of the *Gulf Research Center Foundation* presented his paper on the effects of the volatility of commodity prices on development in resource-dependent states. He reviewed selected examples of policy responses, such as stabilisation funds, the pegging of domestic currency exchange rate to the price of the major export commodity, the direct distribution of dividends to citizens or investment in productive and human capital. He concluded by highlighting

the potential of creating endowments of autonomous public institutions as a promising option.

Paul J. Stevens of the *Royal Institute of International Affairs (Chatham House)* compared the North Sea oil boom experiences in Norway and the United Kingdom, including effects on England-Scotland relations. He contrasted the goals, pace of development and long-term legacies of the two countries' plans. Stevens presented a brief summary of the oil regulatory system and contractual arrangement in the United Kingdom, and highlighted the strengths of the geological service of Norway.

#### Panel 2- Discussion

In response to the first presentation, participants stressed the proposal of endowments of autonomous public institutions. However, some participants questioned the general applicability of this solution, as it requires a significant revenue windfall and tight oversight of the autonomous endowed agency, which commands further research. The main questions raised were: how to provide the right incentives to managers, how to determine success, and what recourse would be available if the agency fails to deliver on its mandate? In addition, participants acknowledged the potential for autonomous endowed agencies to groom skilled technocrats insulated from political pressures, such as those who have played a large role in East Asian development stories. Part of the discussion was devoted to the issue of stabilisation and future generation funds. Participants stressed the requirement to set and enforce clear rules for resources management,

accountability and transparency mechanisms.

Responding to the second presentation on the comparison of North Sea oil development experiences in Norway and the UK, participants raised Albert Hirschman's concept of "technological strangeness" as a barrier to industrial development: for example, developing African states may not have the heritage of maritime technology the Norwegians did prior to their North Sea development.

The implications of technological maturity were also addressed as it affects a state's industrial development prospects in a particular sector. For example, the petroleum service industry that Norway built during its North Sea oil boom may no longer be a realistic model for developing nations due to technological maturity, competition and scale barriers in the modern oil services marketplace. Participants stressed that the main policy lesson arising from the comparison of the British and Norwegian experiences was their essence: Norway has done much better by slowing the pace of extraction to match it with its capacity to develop a domestic oil industry and increase its absorption capacity. However, some participants argued that choices regarding the pace of extraction, including the decision not to extract resources for the time being, have to be matched with the necessity to face problems of poverty and social exclusion in resource-rich developing countries.

### **Panel 3: The role of extractive industries**

Filippo Veglio of the *World Business Council for Sustainable Development (WBCSD)* gave a presentation on the linkages between extractive industries and development, focusing on enterprise development and local content. He outlined that the WBCSD is developing a tool and methodology for measuring stakeholder engagement based on data provided by its member companies. Veglio also underlined the progress of the WBCSD's local content project, which aims at increasing social performance of the industry as well as forward and backward linkages.

Christine Batruch of *Lundin Petroleum* introduced the company's Corporate Social Responsibility (CSR) strategy and explained its recent evolution. She assessed the lessons learnt over more than one decade of operations in sensitive contexts, particularly in Africa, and illustrated the advantages of a proactive CSR strategy by contrasting Lundin's CSR-related outcomes in two of its recent projects in Sudan and the Ogaden region of Ethiopia. She highlighted how CSR policies and strategies have become a distinctive competitive edge in many countries, and how lessons learnt in a fragile state can be highly relevant in an industrial country and vice-versa.

#### **Panel 3- Discussion**

Participants raised several issues regarding property rights, technology transfers, social licenses to operate, and the relationship between trade rules and local content. They pointed out to the need to clarify data coming

from industry, in particular with regard to local content matters. The limited negotiations capabilities and geological data information of most African governments often affects the host state's bargaining power. Participants wondered whether these countries could benefit from a third-party agency providing them with a database of their natural assets and capacity building for contracts negotiation.

Furthermore, the group discussed the different approaches of CSR of international companies operating in Africa, making a distinction between Chinese investors and western companies and questioning what the competitive and development implications for differing CSR standards were. Representatives of the private sector stressed the cultural dimension and complexities underlying CSR, in particular in politically fragile environments.

### **Panel 4: Resource extraction, peacebuilding and development**

Achim Wennmann from the *CCDP* presented a challenging approach of the prevailing understanding of natural resources as an enabler for armed conflict and an obstacle to peace. Drawing from examples in Sudan and Aceh, Indonesia, he explored an alternate hypothesis in which addressing natural resource issues in peace negotiations could create opportunities to break the "conflict trap" and contribute to positive economic, societal and institutional transformation.

Olle Östenson from *Caromb Consulting* introduced a broad summary of the considerable problems facing the Democratic Republic of the Congo (DRC), with particular focus on its unrealised mining potential. He outlined the prospects for the country's general development, as well that of its extractive industries. He then contrasted the situation in Africa (using the DRC as reference) with selected examples from Latin America.

Jana Krause from *IHEID/CCDP* presented the role of civil society in confronting the "resource curse" in developing countries. She outlined the challenges facing international and domestic civil society initiatives, illustrated by recent EITI experience in Nigeria. She challenged the assumption that civil society can have the clout to act as the watchdog on which the success of the whole initiative relies, and contended that expectations based on erroneous assumptions are too high.

#### Panel 4- Discussion

The participants questioned whether or not it was possible to isolate and evaluate the impact of revenue-sharing agreements in a peace process, which may be problematic with regard to the variety and intricacies of conflict and peace drivers. Insufficient or absent monitoring mechanisms were identified as a common downfall of peace process implementation. Ironically, interviews with peace negotiators suggest that the most convincing arguments for robust monitoring mechanisms are found among these past failed peace processes.

Several participants noted how the lack of resource management expertise can complicate a variety of development processes, from peace negotiations to the formation of a robust civil society. In order to narrow this knowledge gap, participants underlined the necessity of a collaborative training effort for – and among – different stakeholders including governments, civil society and companies.

The positive relationship between economic diversification and state commitment to abide and enforce international standards and rules was underlined. Development in any sector eventually leads to increased reliance on international markets and an increasing number of trading partners. A multi-sector economy reduces the likelihood that a state will act counter to the international community's generally accepted norms, or shirk commitments to its trading partners.

In the absence of a strong central authority, the presence of resource rents encourages competition among other actors (local governments, companies, armed factions), which increases externalities. Some participants highlighted that dealing with weak or splintered states, regardless of democratic and development considerations, is often counterproductive as it exacerbates divisions among competing actors.



## **Panel 5: Emerging issues – China and climate change**

Xiaojie Xu from the *China Academy of Social Sciences* and *advisor to CNPC* dwelled on resource governance challenges facing Chinese companies operating abroad in developing countries. Prof. Xu focused on the experience of China's national oil companies (NOCs) in Africa since the mid-1990s. He agreed with Christine Batruch on the fact that CSR policies and practices is becoming an important competitive issue and is ever more closely related with the licence to operate. He identified the shortage of international managerial knowledge among Chinese managers as a major challenge in catching up with CSR best practices. On the other hand, he underlined that Chinese NOCs are often freer than publicly-traded western firms to structure resource extraction deals, such as is the case in resource-for-infrastructure swaps in Africa.

Anida Yupari from the *CCDP/IHEID* presented her paper on the potential physical, policy and legal implication of climate change on extractive industries. She examined the vulnerabilities of the extracting sector with regard to climate change effects, and presented examples of regulatory initiatives to mitigate climate change and their impacts on extractive industries. She also noted industry competitiveness concerns and the business opportunities that climate change may offer to extractive firms.

### **Panel 5- Discussion**

Participants recognised that the domestic context for Chinese

companies differs considerably from the one they encounter in the largely westernised international marketplace. Chinese companies generally do not have the same responsibility to shareholders as their international competitors. The implications of this dualism on Chinese companies and their different markets await further study.

Some participants argued that Chinese companies are rapidly adjusting to international best practices, adding an intriguing new perspective to competition in the international extractive industries. Chinese companies have experienced a steep learning curve in managing the continually increasing stakeholder expectations, notably with regard to the benefits of extraction and the fair distribution of resource revenues.

There was a broad consensus that the recent Copenhagen summit on climate change evidenced the complexities of facing climate change issues and of balancing interests of developed and developing countries. Participants discussed weaknesses in the cap-and-trade system and carbon tax regimes. It was suggested that both systems should target all emissions, not just those from oil. Some participants argued that cap-and-trade systems are insufficient but receive government favours as an alternative to the political burden of imposing taxes.



## **Conclusions and follow-up**

During the concluding session of the workshop, participants concurred on the value of such a multidisciplinary, informal forum to broaden their perspectives and get valuable feedback on the papers presented. Participants highlighted in particular the value of two new perspectives within the group: those of a moral philosopher and a Chinese insider. Issues raised during the workshop and inviting further study included:

- The effect of the pace of extraction on mitigating symptoms of the “resource curse” and achieving better development outcomes;
- The centrality of tax policy to development and diversification in resource-rich countries, including management, structure and redistribution;
- Alternative diversification strategies for resource-dependent states and their feasibility in different settings;
- Prospects for and implications of the adoption of international “soft” law rules in the absence of “hard” binding law to deal with natural resources property rights and extractive revenues;
- Domestic law remedies to ensure the proper management of natural resources and the enforcement of host communities rights over natural resources;
- Incorporation of accountability mechanisms throughout the value chain as the logical further step in transparency initiatives such as EITI;
- Building a minimum resilience within civil society as a prerequisite for the effective

implementation of accountability initiatives.

It was agreed that Prof. Gilles Carbonnier will revise the structure and content of the special issue to be published in *Global Governance*. After discussing with the journal editors, he will provide a detailed feedback to each author with editorial guidance and deadlines.

Participants agreed to keep each other informed of relevant research and developments in the coming months. Closing the workshop, Gilles Carbonnier thanked the participants for making this workshop a valuable, engaging exercise for all involved, as well as Lundin Petroleum for its support and the Guilé Foundation for its collaboration in organizing and making this event possible.

### **Workshop Participants**

Chirstine Batruch, *Lundin Petroleum, Geneva*

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Gilles Carbonnier, *Centre on Conflict, Development and Peacebuilding- Graduate Institute of International and Development Studies, Geneva*

Jonathan Di John, *School of Oriental and African Studies, University of London*

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Giacomo Luciani, *Gulf Research Centre Foundation, Geneva*

Olle Östenson, *Caromb Consulting, France*

Paul Stevens, *Senior Research Fellow, Chatham House*

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Kris Terauds, *Graduate Institute of International and Development Studies, Geneva*

Filippo Veglio, *World Business council for Sustainable Development, Geneva*

Achim Wennmann, *Centre on Conflict, Development and Peacebuilding- Graduate Institute of International and Development Studies, Geneva*

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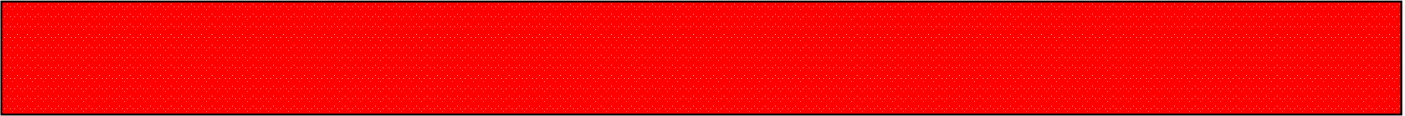
Anida Yupari, *Centre on Conflict, Development and Peacebuilding- Graduate Institute of International and Development Studies, Geneva*

### **About the Workshop report**

This report outlines the results of the workshop generously funded by Lundin Petroleum and organized in collaboration with the Fondation Guilé, in the framework of a CCDP research project on “Global and Local Governance of Natural Resources: the Case of Oil and Gas”.

The research project focuses on newly emerging forms of governance aiming to avert the so-called “resource curse” by examining the evolving roles and responsibilities of two key stakeholders in the governance of hydrocarbons: Civil society organizations and economic actors (extractive industries and the financial sector). It looks at the interactions between them and the State, both at the global level and in selected oil producing countries. The objective is to distil new insights and lessons to contribute to improving the impact of multi-stakeholder initiatives on oil and gas producing countries in the developing world in terms of governance and sustainable, inclusive development.

The project is hosted at the Centre on Conflict, Development and Peacebuilding (CCDP). It is directed by Gilles Carbonnier, professor of Development Economics at the Graduate Institute and Deputy Director of the CCDP, in collaboration with Anida Yupari, research fellow at the CCDP.



The CCDP is a research centre of the Graduate Institute of International and Development Studies in Geneva, Switzerland. It aims to offer policy relevant research built upon strong academic foundations on a variety of themes and issues, including: peacebuilding and reconciliation; post-conflict transitions and state-building; armed violence and development; and multi-stakeholder initiatives and the politics of monitoring and evaluation. The CCDP also participates in and supports a variety of outreach initiatives, including training modules, lectures and briefings, publications and other activities designed to disseminate the fruits of its research projects to relevant stakeholders beyond the academic community.

For more information, please visit [www.graduateinstitute.ch/ccdp](http://www.graduateinstitute.ch/ccdp)